

# **APPENDIX “A”**

# AIPA Term Calculation Report

APPLICATION INFORMATION			
Docket Number:	I-2003.005 US	User Name:	Blackstone, William
Application Number:	10/563,601	Firm/Company Name:	Schering-Plough
Filing Date:	07/12/2004	User Comments:	
Title/Inventor(s):	BABESIA VACCINES; Bernard Piere Dominique Carcy , Montipellier, (FR)	Calculation Generated:	10/30/2009 05:14:39 PM ET

AIPA TERM CALCULATION SUMMARY	
Calculation Mode:	Preliminary (1)
Earliest Referenced Application under 35 USC § 120, 121, or 365(c):	07 / 12 / 2004
International Filing Date:	07 / 12 / 2004
Net Adjustment Credits:	476 Days
Net Adjustment Debits:	118 Days
Patent Term Adjustment:	358 Days
AIPA Patent Term End Date:	07 / 05 / 2025 (2)
<p>(1) Based on your current data for this application, a complete calculation could not be performed. Some rule(s) in your application could not be analyzed because they are associated with improper events or missing related events, or an election was made not to analyze the rule. For a list of event and rule issues, see the Term Analysis tab.</p> <p>(2) Assumes payment of all maintenance fees, no intervening acts, and no 35 USC 156 regulatory extensions. Terminal disclaimer(s) filed in this case, if any, may result in an earlier term end date. Without adjustment, the term would end on 07/12/2024.</p>	

COMPARISON TO USPTO PAIR PTA TAB (3) (Based on PAIR Data from 10/27/2009)			
	PAIR PTA Tab	Your Calculation (1)	Comparison
Credit Days (USPTO Delay):	139	476	x
Debit Days (Applicant Delay):	56	118	x
Total Patent Term Adjustment Days:	83	358	x
(3) Comparison is shown for USPTO Delay, Applicant Delay, and Total Patent Term Adjustment fields displayed on USPTO PAIR Patent Term Adjustments (PTA) tab on 10/27/2009. See the full PAIR PTA tab, file wrapper (e.g., Notice of Allowance, PTA-related petitions), and issued patent for complete information on USPTO-calculated PTA.			

RULE CALCULATION SUMMARY (1) (4)						
	Event	Rule Invoked	Related Event	Exclusion Days (5)	Debit Days (6)	Credit Days (7)
A	04/18/2006 Notice of DO/EO Missing Requirements	<p><b>3-Month Applicant Response to Notice or Action</b></p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).</p>	<p><i>Applicant Response:</i></p> <p>None Assigned</p> <p><b>Not Analyzed (1)</b></p>			
	05/04/2006 National Stage Commenced under 35 USC 371(b) or (f)	<p><b>3-Year PTO Issue of Patent</b></p> <p>PTO must issue a patent within 3 years (not including exclusions) after the date on which the application was filed under 35 USC 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application. Period of adjustment (credits) begins on the day after the date that is 3 years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the listed exclusionary periods. 35 USC 154(b)(1)(B); 37 CFR 1.702(b), 1.703(b).</p> <p>You have elected to analyze this rule without applying the USPTO 37 CFR § 1.703(f) Actual Delay limitation in determining Credit Days under this rule. This is consistent with DC District Court ruling in Wyeth et al. v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).</p>	<p><i>Issue Date:</i></p> <p>04/06/2010 Issue Date</p>			337

C	<p>05/04/2006 Application Fulfilled Requirements of 35 USC 371</p>	<p><b>14-Month PTO First Action</b></p> <p>PTO must mail a notification under 35 USC 132 or a notice of allowance under 35 USC 151 not later than 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 in an international application. Period of adjustment (credits) begins on the day after the date that is 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 and ending on the date of mailing of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(i); 37 CFR 1.702(a)(1), 1.703(a)(1).</p>	<p><i>First PTO Action:</i></p> <p>11/16/2007 Restriction / Election-of-Species</p>	135
D	<p><b>3-Month Applicant Response to Notice or Action</b></p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).</p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p>	<p><i>Applicant Response:</i></p> <p>12/06/2007 Response to Election-of-Species / Restriction Filed</p>	0	
E	<p><b>4-Month PTO Response to Applicant Reply</b></p> <p>PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(2), (3).</p>	<p><i>PTO Response:</i></p> <p>01/16/2008 Non-final Action</p>	0	
F	<p><b>3-Month Applicant Response to Notice or Action</b></p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).</p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p>	<p><i>Applicant Response:</i></p> <p>04/16/2008 Reply after Non-final Action under 37 CFR 1.111</p>	0	

<p><b>G</b></p> <p>04/16/2008 Reply after Non-final Action under 37 CFR 1.111</p>	<p><b><u>4-Month PTO Response to Applicant Reply</u></b></p> <p>PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(2), (3).</p>	<p><i>PTO Response:</i> 08/20/2008 Non-final Action</p>			<p><b>4</b></p>
<p><b>H</b></p> <p>08/20/2008 Non-final Action</p>	<p><b><u>3-Month Applicant Response to Notice or Action</u></b></p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).</p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p>	<p><i>Applicant Response:</i> 01/15/2009 Reply after Non-final Action under 37 CFR 1.111</p>		<p><b>56</b></p>	
<p><b>I</b></p> <p>01/15/2009 Reply after Non-final Action under 37 CFR 1.111</p>	<p><b><u>4-Month PTO Response to Applicant Reply</u></b></p> <p>PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(2), (3).</p>	<p><i>PTO Response:</i> 04/16/2009 Final Rejection</p>			<p><b>0</b></p>
<p><b>J</b></p> <p>04/16/2009 Final Rejection</p>	<p><b><u>3-Month Applicant Response to Notice or Action</u></b></p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).</p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p>	<p><i>Applicant Response:</i> 09/16/2009 Notice of Appeal to Board of Patent Appeal and Interferences</p>		<p><b>62</b></p>	

K	09/16/2009 Notice of Appeal to Board of Patent Appeal and Interferences	<b><u>Exclusion for Appellate Review</u></b>	3-Year PTO Issue Requirement does not include the period of appellate review by the BPAI or a Federal court, beginning on the date on which a notice of appeal to the BPAI was filed under 35 USC 134 and 37 CFR 41.31 and ending on the date of the last decision by the BPAI or by a Federal court in an appeal under 35 USC 141 or a civil action under 35 USC 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the BPAI. 35 USC 154(b)(1)(B)(ii); 37 CFR 1.702(b)(4), 1.703(b)(4).	<i>Responsive Event:</i>  None Assigned	Not Analyzed (1)			
		<b><u>Credit for Successful Appellate Review</u></b>	Term of an original patent shall be adjusted (credits) for the period beginning on the date on which a notice of appeal to the BPAI was filed under 35 USC 134 and 37 CFR 41.31 and ending on the date of a final decision in favor of the applicant by the BPAI or by a Federal court in an appeal under 35 USC 141 or a civil action under 35 USC 145. 35 USC 154(b)(1)(C)(ii); 37 CFR 1.702(e), 1.703(e).	<i>Final Appellate Decision:</i>  None Assigned	Not Analyzed (1)			
L	09/16/2009 Notice of Appeal to Board of Patent Appeal and Interferences	<b><u>3-Month Applicant Response to Notice or Action</u></b>	Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).  Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).  You have indicated that no 1.705(c) Showing of Due Care was made.	<i>Applicant Response:</i>  12/28/2009 Issue Fee Payment under 35 USC 151	0			
		<b><u>4-Month PTO Issue of Patent</u></b>	PTO must issue a patent not later than 4 months after the date on which the issue fee was paid under 35 USC 151 and all outstanding requirements were satisfied. The period of adjustment (credits) begins on the day after the date that is 4 months after the date the issue fee was paid and all outstanding requirements were satisfied and ends on the day the patent issues. 35 USC 154(b)(1)(A)(iv); 37 CFR 1.702(a)(4), 1.703(a)(6).	<i>Issue Date:</i>  04/06/2010 Issue Date	0			
N	12/28/2009 Issue Fee Payment under 35 USC 151	Total Exclusion, Debit, and Credit Days:				0	118	476
		Overlap Days (8) :				0	0	0
		Net Exclusion, Debit, and Credit Days:				0	118	476
		Patent Term Adjustment Days (9) :						358

(4) Calculations of Debit, Credit, and Exclusion Days are determined by the rule assignments, assignments of related events, and analysis options in the Apply Term Rules tab. The patent professional using this system is responsible for reviewing and updating the Apply Term Rules tab to ensure all data is complete, correct, and consistent with their judgment and interpretation of applicable legal authority.

(5) Exclusion Days are periods which are not included in determining the end of the 3-year period after the date on which the application was filed under 35 USC 111(a), or the national stage commenced under 35 USC 371(b) or (f) in an international application, used to determine credits under the 3-Year PTO Issue of Patent rule. See 35 USC 154(b)(1)(B)(i)-(iii); 37 CFR 1.702(b)(1)-(5), 1.703(b)(1)-(4).

(6) Debit Days are days where grounds for reduction of period of adjustment of patent term exist. See, e.g., 37 CFR 1.704. Debit Days are sometimes referred to as Applicant Delay.

(7) Credit Days are days where grounds for adjustment of patent term exist. See, e.g., 37 CFR 1.702, 1.703. Credit Days are sometimes referred to as USPTO Delay.

(8) To the extent credit periods overlap other credit periods, debit periods overlap other debit periods, or exclusion periods overlap other exclusion periods, overlaps are subtracted so that each calendar day generates at most one credit day, one debit day, and one exclusion day.

(9) Patent Term Adjustment Days equals Net Credit Days minus Net Debit Days, but is not less than zero.